

**UNITED STATES DISTRICT COURT**

Kane, et al.

Plaintiffs,

**VS.**

De Blasio, et al.

**Defendants.**

# DECLARATION OF HEATHER JO CLARK

Civil Action No. 1:21-cv-07863

STATE OF PENNSYLVANIA )  
 ) ss.:  
COUNTY OF PERRY )

**Heather Jo Clark**, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746,  
that the following is true:

1. I am Heather Jo Clark
2. I have been working for the NYC DOE for 4.5 years. I have spent my entire career in education and the bulk of my classroom teaching experience was in Oakland, CA – a district very similar to the NYC DOE in terms of size and demographics.
3. I derive great satisfaction from my contributions to the important work of the NYC DOE, and my job is important to me as I am the sole supporter of myself. Not only do I

support myself, but I am now taking on the responsibility of caring for a declining parent as my sister who formerly provided this support is now receiving chemotherapy and radiation treatment for cancer. I depend on this job to live – it is my livelihood -- and others depend on me to be able to provide physical support to them, which I cannot do without the income that was recently denied to me because I am unvaccinated.

4. My job is important to students of NYC schools, as teachers are chronically overworked in keeping up with the demands of teaching and especially following a year plus of remote learning when students especially need extra support emotionally and academically from qualified, experienced educators. My job at NYC DOE supports teachers in doing their work to create the most effective instruction for students to work to the best of their abilities. We want to make sure that students' physical and emotional well-being, as well as academic, does not suffer any more than it has. This weekend I learned that four Central staff member colleagues have been redeployed to schools/classrooms starting Monday, October 4<sup>th</sup>. One colleague has classroom experience and the other three have never worked in a classroom or with students at any point in their careers. While I fear that my (former?) colleagues will resign in the near future from this pressure, I certainly fear more for the students who will be subjected to these inexperienced, unqualified staff members as their "teachers," as they have no idea how to handle their multiple needs and possibly may not be able to maintain order.
5. I am also working on my data analysis skills that support tailoring instruction to meet student needs. I am constantly revising and updating the materials that I use for professional learning provided to school-based staff so that they have the best information and training to improve teaching and learning.

6. On August 23, 2021, I was informed that I must get the COVID-19 vaccine to keep my job at the NYC DOE.
7. I have sincerely held religious beliefs that prevent me from getting the Covid-19 vaccine. I also have a medical exemption for the same.
8. I attempted to submit a religious exemption through "SOLAS", the system provided for teachers and staff to upload religious or medical exemptions. I also attempted to submit a reasonable accommodation to work remotely, as medically I am unable to get the vaccine and have been working remotely for 17 months for the NYC DOE.
9. I applied for a religious exemption on September 16, 2021. I was immediately denied with a rubber-stamped letter that stated "unvaccinated employees cannot work in a school building without posing a direct threat to health and safety. Due to the configuration for the 2021 - 2022 school year, which includes no remote classwork, we cannot offer another worksite as an accommodation". However, I do not and have never worked in a school building. I immediately applied for an appeal and was given a date for the arbitration via Zoom. I also applied for reasonable accommodation on September 16, 2021 based on the note from my medical provider stating that it is not advised that I take the vaccine and recommended that I continue to work remotely to strengthen my immune system. I have suffered with post-Covid syndrome since May, 2020. This medical professional treated me since the time I was barely able to walk or function following my Covid-19 infection and advised that I not take the Covid vaccine due to my fragile health and low T-cell count and other blood test results taken over the course of 16 months of treatment. However, the DOE immediately responded to my application saying that I must submit "immunoglobulin study reports." So, with no knowledge of my medical history, the DOE told me what single blood test is acceptable

and without it they are demanding that I be injected with the vaccine in spite of the recommendation of a medical professional who basically brought me back to life following Covid. The DOE did not give me a physical, review my extensive recent bloodwork which includes my T-cell count, or medical history which includes an allergic reaction to a prior vaccine for which I was hospitalized with convulsions. I did not arrange to take the immunoglobulin study reports as they were not recommended by my medical provider and I am not ill with a disease that would impact my immunoglobulin to a significant degree. I did not submit to this test as it isn't medically necessary for my treatment or healing and my reasonable accommodation was denied.

10. During the Zoom arbitration regarding the religious exemption I had to raise my right hand to confirm that I would say the truth, although no one else in the room had to affirm that they were telling the truth. And, in fact, it seemed as though they were not, as the DOE representative said that none of the current U.S. vaccines have ever used aborted fetal cell lines, which is a false statement. They listened to my statement of my religious beliefs for approximately 3-4 minutes and then, with no questions, the DOE representative pronounced that I “do not have sincere religious beliefs because I have taken aspirin in my life.” And that was the end of the “arbitration”, and I was eventually denied the religious exemption. Strangely, I never received an email notification of the decision, I stumbled upon the denial in SOLAS by chance. Following that ruse of an arbitration, I truly understand the meaning of “kangaroo court.”

11. Without relief from this Court, I will lose my ability to teach in the NYC public school system effective on Monday, October 4<sup>th</sup>. Losing trained educators certainly has the biggest impact on students. The untrained stand-ins will not be meeting students' academic needs let alone managing attendance and understanding schedules. Quite

likely they may not be able to keep students physically safe as they do not know the emergency procedures for intruders, bomb threats, and FIRE. What happens if there is a fight between students, or if a student is ill? What policies do the stand-ins know? What happens when students don't wear masks? Are they able to log in to technology and understand how students are supposed to access it as well? Do they know how to access the curriculum and supporting documents? Do they know what an IEP is and how to access them, let alone provide the required services and support. The lack of concern on the part of the DOE that this mandate has by separating qualified teachers from their students and replacing them with warm bodies is astounding and has nothing do with safety, education, or the best interests of our students.

A handwritten signature in black ink, appearing to read "Heather Jo Clark". The signature is fluid and cursive, with the first name "Heather" being more prominent than the last name "Clark".

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Heather Jo Clark